

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**Docket Number (Optional)  
7784-000656/US

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

Application Number  
10/698,800Filed  
10/31/2003First Named Inventor  
Eric W. Fleischman

On \_\_\_\_\_

Art Unit  
2617Examiner  
Sharad K. Rampuria

Signature \_\_\_\_\_

Typed or printed name \_\_\_\_\_

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor

☐ assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

☒ attorney or agent of record.

Registration number 33,686

☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 \_\_\_\_\_

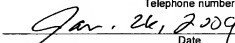
  
Signature

Mark D. Elchuk

Typed or printed name

248-641-1600

Telephone number

  
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below\*.

☐ \*Total of \_\_\_\_\_ forms are submitted.

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application No.: 10/698,800  
Filing Date: October 31, 2003  
Applicant: Eric W. Fleischman  
Group Art Unit: 2617  
Examiner: Sharad K. Rampuria  
Title: GEO-CAST SYSTEMS AND METHOD  
Attorney Docket: 7784-000656

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Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

**PRE-APPEAL STATEMENT AND FILING OF NOTICE OF APPEAL UNDER 37 C.F.R.  
§41.31(a)**

Sir:

In response to the Final Office Action mailed October 24, 2008, the undersigned is hereby submitting the present Pre-appeal statement. A Notice of Appeal under 37 C.F.R. § 41.31(a) is being submitted with the needed fee under 37 C.F.R. § 41.20(b)(1).

**Overview**

The present application involves a system and method for communicating with only a subquantity of mobile receivers operating within a geographic area that the sender wishes to communicate with. The system is particularly useful with time critical messages. The system may geo-cast messages to at least one receiver within a geographic region. The system may include an input for receiving the message and a circuit coupled to the input. Upon receiving the message, the circuit may read a

geographic designator. Then the circuit accesses a geospatial database using the geographic designator whereby the circuit determines which receivers are in the geographic region designated by the geographic designator. From the geospatial database, the circuit also determines addresses for the receivers so that the circuit can individually forward the message to the receivers within the designated geographic region.

#### Rejection Under 35 U.S.C. § 103 Is Improper

Claims 1-5, 7, 12-14, 16-17, 21-23 have been improperly rejected as being obvious over Ahn (U.S. Pat. Pub. No. 2003/0013466; hereinafter "Ahn"), Padmanabhan (U.S. Pat. No. 6,766,245; hereinafter "Padmanabhan"), and Ogasawara et al. (U.S. Pat. No. 6,947,754; hereinafter "Ogasawara") in view of Irvin (WIPO Pat. No. WO 200030379; hereinafter "Irvin"). Initially, Applicant notes that Ahn appears to disclose a system for transmitting a message to various cellular phone subscribers that exist within defined geographic regions. In particular, with reference to the Table, Ahn defines his geographical scope as cell wide (cellular area where message originates), PLMN wide (entire cellular network), or location area wide (cellular area where message originates and neighboring cellular areas). Padmanabhan involves a location determination system in which landmarks are used to determine the location of the user. Ogasawara involves the use of wide area location registration and narrow area location registration to determine a location of a mobile station 10. In this regard, Ogasawara discloses that the wide area location is defined by a plurality of radio zones covered by a plurality of base stations 21, while a narrow area location is a radio zone of a single base station. Note that this technique does not identify a specific unique position of the mobile station 10, but rather narrows the position of the mobile station 10 to a zone. Irvin involves broadcasting messages to one or more cellular phone subscribers in a particular area using a digital cellular communications network.

In contrast to the cited art, independent Claim 1 has been amended to recite:

*designating an **arbitrary geographic region** to transmit the message to  
by reference to a physical structure within the geographic region...*

*transmitting the message to the addresses of each of the recipients having current locations within the geographic region by serially unicasting the message **over a mobile ad hoc network** (emphasis added).*

Independent Claim 12 was amended to recite the use of a “**mobile ad hoc network**”, and also that the geographic region is “**arbitrarily defined**” by reference to one or more physical structures. Independent claim 22 was amended to also recite the “**mobile ad hoc network**”, as well as a geographic destination designator that designates an “**arbitrarily defined geographic destination**” for the message. Independent claim 23 was amended to highlight the operation of transmitting a message to at least one selected recipient based on their “**geographic location**”, and also the operation of serially unicasting the message to the addresses of the recipients that are located within the geographic region “**over a mobile ad hoc network**”.

Ahn, Padmanabhan, Ogasawara and Irvin, singly or in combination, do not teach or suggest each and every element of at least Claims 1, 12, 22 and 23. In this regard, none of the cited art teach or suggest designating an arbitrary geographic region to transmit the message to and transmitting the message to the addresses of each of the recipients having current locations within the geographic region by serially unicasting the message over a mobile ad hoc network, as claimed in Claim 1. Regarding Claim 12, the cited art does not teach or suggest a mobile ad hoc network and transmitting the message to identified receivers within a geographic destination based on a reported address for each identified receiver, with the geographic destination comprising a geographic region that is arbitrarily defined. Regarding Claim 22, the cited art does not teach or suggest a mobile ad hoc network and the transmitter enabling operation at an OSI application level to receive a message and a geographic destination designator that designates an arbitrarily defined geographic destination for the message. In Claim 23, the cited art does not teach or suggest transmitting a message to at least one selected recipient based on their geographic location by...serially unicasting the message to the addresses of the recipients that are located within the geographic region over a mobile ad hoc network.

The cited art appears to involve the use of a cellular network to broadcast the messages. In this regard, while Ahn may involve broadcasting messages as a function of the physical locations of cell towers, Ahn leverages the existing protocols and infrastructure that exist with cellular phone technology to broadcast his message. Similarly, Padmanabhan, Ogasawara and Irvin fail to remedy the shortcomings of Ahn, as each of these references involves broadcasting messages with the use of cellular phone technology that relies upon existing wireless cellular networks created by statically placed transmission towers, which are pre-placed strategically within a geographic region. The mobile devices contemplated by Ahn, Padmanabhan, Ogasawara and Irvin move in reference to this static or stationary equipment. Further, Ahn involves locating and grouping communications to the users based on the pre-defined cell tower infrastructure (i.e. the known cellular area), like Ogasawara, who teaches locating users based on their proximity to radio zones (cellular area) defined by the base station or cell phone tower.

In contrast to Ahn, Padmanabhan, Ogasawara and Irvin, the presently claimed system and method involves broadcasting messages over a **mobile ad hoc network** – a network in which the mobile devices themselves create their own potentially constantly changing infrastructures. In other words, the amended claims relate to transmitting messages in environments that **do not have any existing communications infrastructures** whatsoever (e.g., battlefields, space exploration, under-sea exploration, disaster recovery). The claimed network infrastructure itself is formed by the arbitrary geographic location of the mobile entities themselves. Since the entities that comprise the networks themselves are moving in potentially random and certainly unknown ways, the location of those entities are continually changing, and thus the geographic region for the transmission of the message is continually changing.

In addition, Applicant notes that the mobile devices of Ahn, Padmanabhan, Ogasawara and Irvin cannot operate on a mobile ad hoc network as claimed. Rather, the message transmission techniques of the cited art are entirely dependant upon *pre-defined cellular areas* and cannot exist outside of a cell phone infrastructure context. Further, one of ordinary skill in the art would not modify Ahn to include mobile devices that are capable of operating on a mobile ad hoc network as there is no evidence or

suggestion of such a configuration in Ahn. Perhaps most importantly, such a modification would actually change the principle of operation of Ahn, and thus is improper. MPEP 2143.01.

With additional reference to Claim 1, it will be noted that Claim 1 also recites "using the geospatial database to compare the current reported locations of the recipients with the reference to the structure, the address of at least one of the recipients being an **internet protocol (IP) address**", and "changing the wide area network address of the recipient to dynamically obtain a **new IP address** due to movement of the recipient . . . (emphasis added). However, the Ahn, Padmanabhan, Ogasawara and Irvin references, singly or in combination, do not teach or suggest each and every element of Claim 1 because none of the cited art teach or suggest the address of at least one of the recipients being an **internet protocol (IP) address** or changing the wide area network address of the recipient to dynamically obtain a **new IP address** due to movement of the recipient, as claimed. Rather, Ahn, Padmanabhan, Ogasawara and Irvin teach the use of OSI layers 1 and 2 to broadcast cellular messages, and not the use of TCP/IP protocol.

Since the pending dependent claims all depend from one of independent claims 1 or 12, it is submitted that these claims also have been improperly rejected.

### Conclusion

The final rejections of the claims is thus improper and withdrawal of all of the rejections is respectfully solicited.

Respectfully submitted,

Dated: Jan. 26, 2009

By: Mark D. Elchuk

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